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FORTIER, MAHAFFEY, and A. SCHEIBER.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROBBIE D. WHITE,

Plaintiff,

vs.

CITY AND COUNTY OF WEST
SACRAMENTO, et al.,

Defendants.

) Case No.: 2:20-cv-02383-MCE-AC

)
) **DEFENDANT'S NOTICE OF MOTION**
) **AND MOTION TO DISMISS**

) **DATE: February 11, 2021**

) **TIME: 2:00 p.m.**

) **CRTRM: 7**

) **Hon. Morrison C. England**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 11, 2021, at 2:00 p.m. or as soon thereafter as
the matter may be heard in Courtroom 7 of the United States District Courthouse located at 501 I
Street, Sacramento, California, Defendants CITY AND COUNTY OF WEST SACRAMENTO,
N. OGDEN, FORTIER, MAHAFFEY and A. SCHEIBER, (hereinafter "Defendants"), will and
hereby move, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order
dismissing Plaintiff ROBBIE D. WHITE'S ("Plaintiff") Complaint and Demand for Jury Trial.

1 This Motion specifically seeks dismissal, without leave to amend, on the following
2 grounds:

3 1. The *Monell* claims (Claim Nos. 1, 2) are based solely on conclusory statements and
4 devoid of any factual allegations sufficient to state a claim for relief.

5 2. The Malicious Prosecution claim (Claim No. 5) is prohibited by California
6 Government Code § 821.6.

7 3. The “Negligent Hire, Training, Retention” claim (Claim No. 7) is prohibited by
8 California Government Code § 815(a) and § 815.6.

9 4. The Unruh Civil Rights Act claim (Claim No. 8) is prohibited because the statute
10 does not apply to public entities or their employees, and as against the City as a direct claim is
11 prohibited by California Government Code § 815(a) and § 815.6.

12 The Motion will be based on this Notice of Motion, the Memorandum of Points and
13 Authorities filed in support hereof, the complete file and records in this action, and on any oral
14 and/or documentary evidence that may be submitted or presented at or before the hearing of this
15 motion.

16 Dated: December 29, 2020

ANGELO, KILDAY & KILDUFF, LLP

17
18 /s/ *Garrett L. Seuell*

By: _____

19 GARRETT L. SEUELL
20 Attorneys for Defendants CITY AND
21 COUNTY OF WEST SACRAMENTO,
22 N. OGDEN, FORTIER, MAHAFFEY,
23 and A. SCHEIBER.
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